

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 3:11-cr-160

Also Case No. 3:14-cv-302

Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

-v-

ERIC NEWSOME

Defendant.

ENTRY AND ORDER OVERRULING NEWSOME’S OBJECTIONS (Doc. #78) TO THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATIONS REGARDING NEWSOME’S MOTION TO VACATE, CORRECT OR SET ASIDE SENTENCE (Doc. #77); OVERRULING NEWSOME’S OBJECTIONS (Doc. # 81) TO THE MAGISTRATE JUDGE’S SUPPLEMENTAL REPORT AND RECOMMENDATIONS REGARDING NEWSOME’S MOTION TO VACATE, CORRECT OR SET ASIDE SENTENCE (Doc. # 80); DENYING NEWSOME’S MOTION TO VACATE, CORRECT OR SET ASIDE SENTENCE (Doc. #76) WITH PREJUDICE; DENYING A CERTIFICATE OF APPEALABILITY AND CERTIFYING THAT ANY APPEAL WOULD BE OBJECTIVELY FRIVOLOUS

Pro se Petitioner Eric Newsome (“Newsome”) has filed a Motion To Vacate pursuant to 28 U.S.C. § 2255. (Doc. #76.) Upon initial review pursuant to Rule 4 of the Rules Governing § 2255 cases, Magistrate Judge Michael R. Merz issued a Report and Recommendations (doc. #77) recommending that Newsome’s Motion be denied with prejudice, that Newsome be denied a certificate of appealability and that the Court certify to the Sixth Circuit that any appeal of this Order would be objectively frivolous. Newsome objected to this Report and Recommendations. (Doc. #78.)

The Court then recommitted the matter to Magistrate Judge Merz (doc. #79), following

which Magistrate Judge Merz issued a Supplemental Report and Recommendations (doc. #80) making the same recommendation. Newsome then objected to the Supplemental Report and Recommendations. (Doc. #81.)

Since the matter is being considered on initial review, the United States is not expected to respond to either of Newsome's Objections. This matter is, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Newsome's Objections to the Magistrate Judge's Report and Recommendations and Newsome's Objections to the Magistrate Judge's Supplemental Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations and Supplemental Report and Recommendations are adopted in their entirety.

Newsome's Motion To Vacate, Correct or Set Aside Sentence (doc. #76) is denied with prejudice. Further, Newsome is denied a certificate of appealability and any appeal of this matter would be objectively frivolous.

DONE and ORDERED in Dayton, Ohio this Fourth Day of December, 2014.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Eric Newsome at his last address of record